**HON'BLE SRI JUSTICE T.CH. SURYA RAO**
**AND**
**HON'BLE SRI JUSTICE G. CHANDRAIAH**

**W.P.NO. 10569 OF 2006**

**DATED: 30.11.2006**

Between:

M.M. Jahangir Ali

… Petitioner

and

Smt. P. Janaki and others

… Respondents

**HON'BLE SRI JUSTICE T.CH. SURYA RAO**
**AND**
**HON'BLE SRI JUSTICE G. CHANDRAIAH**

**W.P.NO.10569 OF 2006**

**ORDER: (PER TCSR.J)**

Heard the learned counsel for the petitioner and the learned senior counsel for the respondents.

The instant writ petition has been filed with the leave of the court *qua* the order passed in I.A.No.486 of 2004 in LGC No.20 of 1988 dated 24.4.2006 seeking to quash the same. Initially, a batch of land grabbing cases had been filed and disposed of, by means of a common order by the Special Court in LGC Nos. 1 of 1988 and 20 of 1988, 39 of 1989, 38 of 1989 and 102 of 1989. The matter went up to the Apex Court as against the common judgment delivered by the Special Court in all the above referred LGCs. At the stage of the Special Court, all other parties are held to be grabbers of the land *qua* the State. Finally by the Apex Court, it was held late P.V. Hanumantha Rao, whose legal representatives are the respondents herein, was the owner of the land in dispute in LGC No.20 of 1988. That was the application filed by late P.V.

Hanumantha Rao against the present writ petitioner-Society as well as the State. Consequently, the finding given by the learned Special Court in favour of the State *qua* late P.V. Hanumantha Rao has been eventually reversed. Before the Apex Court, the applicant in LGC No.20 of 1988, who suffered an adverse finding *qua* the State, concentrated mainly against the State by arraying the State only as a party, omitting thereby the respondents in LGC 20 of 1988 from the array. In view of the same although LGC No.20 of 1988 was eventually allowed by the Apex Court, it was against the *eo nominee* party namely; the State alone. Having regard to the eventual finding given by the Apex Court in all these batch matters, the respondents herein are sought to evict the writ petitioners by filing an application in I.A.No.486 of 2004 in LGC No.20 of 1988 under Rule 15 (2) of the A.P. Land Grabbing (Prohibition) Rules, 1988 (for brevity 'the Rules') framed under the A.P. Land Grabbing (Prohibition) Act, 1982 ( for brevity 'the Act). That application has been resisted by all concerned including the writ petitioners. Under the impugned order dated 24.4.2006, the learned Special Court directed the RDO, Ranga Reddy District to take such steps to deliver possession of the application schedule land within a period of two months from the date of the impugned order to the petitioners.

The contention of the writ petitioners is that they have been in physical possession of the land and inasmuch as in LGC No.20 of 1988 they having been *eo nominee* parties, but they having not

been impleaded as parties in the appeal, before the Apex Court any order passed in LGC No.20 of 1988 in favour of the appellants, the respondents herein, by the Apex Court is not binding upon them and at the instance of the respondents, they cannot be evicted in the absence of any positive order directing their eviction.

It is now sought to be contended before us as against the State all parties are held to be grabbers of the land initially and that finding given by the Special Court is still staring on the faces of the writ petitioners, therefore, they cannot now validly contend before this court that they cannot be dispossessed having regard particularly to sub-section 6 of Section 8 of the Act.

Without adverting to the merits of the case, it is obvious that since the writ petitioners are not parties at the level of Apex Court in LGC No.20 of 1988 wherein by allowing the LGC, the Apex Court held that the applicant therein was the owner; that order will not bind the writ petitioners. The respondents in the writ petition, who are legal representatives of the deceased-applicant in LGC No.20 of 1988 cannot file an application under Rule 15 (2) of the Rules framed under the Act with a request that the writ petitioners be evicted as land grabbers from the land in question, to implement the order in LGC No.20 of 1988.

At this stage, the learned senior counsel seeks to contend that since the writ petitioners were held to be land grabbers in LGC

No.1 of 1988 and 39 of 1989 wherein the State was the applicant and the respondents and late P.V. Hanumantha Rao being a party thereto along with the writ petitioners, the order passed in LGC No.1 of 1988 and 39 of 1989 *qua* the writ petitioners having become final, it is open to the respondents herein to request the Special Court to implement those orders and deliver possession to them. That is not the point germane in the instant writ petition. However it is open to the respondents herein to file such an application either LGC 1 of 1988 or LGC No.39 of 1989 in which event the petitioners can also take a tenable objection by filing their counter. The leave sought by the respondents to file such an application, in the event the instant writ petition is allowed can therefore be considered although such a leave is not necessary in ordinary course. In our view that would subserve the interests of justice.

With that observation, the writ petition has got to be allowed. In the event such an application is filed, it is also equally open to the writ petitioners to file necessary counter.

In the result, the writ petition is allowed in terms of the observations made herein above *inter alia* in the order. But, in the circumstances, no order as to costs.

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**T.CH. SURYA RAO, J**

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**G. CHANDRAIAH, J**

**DATE: 30.11.2006**

**CVM**